

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BMC SOFTWARE, INC.,
Plaintiff,
v.
SERVICENOW, INC.,
Defendant.

Case No. 5:15-mc-80252-HRL

**ORDER RE JOINT DISCOVERY
REPORT**

This is a miscellaneous action to compel non-party Hewlett-Packard Co. (HP) to provide deposition testimony in response to a subpoena served by ServiceNow, Inc. (ServiceNow). This court is told that ServiceNow is the defendant in a patent infringement action filed by plaintiff BMC Software, Inc. (BMC) in the United States District Court for the Eastern District of Texas.

The undersigned does not entertained noticed discovery motions and generally requires discovery matters to be presented via a Joint Report. Accordingly, ServiceNow and HP (and, to the extent it wishes to be heard on this matter, BMC)¹ shall file a Joint Discovery Report re the instant discovery dispute. The Joint Report shall be filed no later than **October 23, 2015**. The

¹ It is not apparent that BMC has a dog in this discovery dispute, and this court does not wish to invite any argument that is not directly relevant to the issue to be decided, i.e., whether HP should be compelled to comply with ServiceNow's subpoena. But, the undersigned will not preclude BMC from participating in the Joint Report if BMC truly believes it is necessary for resolution of ServiceNow's pending motion to compel.

report's cover page shall identify the close of discovery and any other date that is relevant. The report shall not exceed 12 pages and should describe the dispute and the facts essential to understanding it. Then, in a format that allows ready comparison, it should give each side's position (with brief citation to important authority), as well as each side's final and most reasonable proposal for how the court should decide. This court discourages appending copies of meet-and-confer correspondence as exhibits. Additionally, in no event should any exhibits appended to the Joint Report duplicate exhibits that have already been submitted with ServiceNow's motion to compel. Upon receipt of the Joint Report, the court will decide what further proceedings, if any, are appropriate. If the issue is clearly presented and ripe for decision, the court may simply issue a ruling without further briefing or a hearing.

SO ORDERED.

Dated: October 16, 2015



HOWARD R. LLOYD
United States Magistrate Judge

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